

APPEAL NO. 020169
FILED FEBRUARY 28, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 4, 2002. The hearing officer resolved the disputed issues before him by determining that (1) while in the course and scope of his employment, the respondent (claimant) did receive trauma to his spine on _____, which caused an injury to his lumbar and cervical spine; (2) due to the injury of _____, the claimant was unable to obtain and retain employment at wages equivalent to his preinjury average weekly wage (AWW) on June 13, 2001, and beginning June 15, 2001, and continuing through the date of the hearing; (3) the claimant did not sustain a compensable injury on _____, because he failed to timely report the injury to his employer and no good cause existed for failing to do so; and (4) the claimant did not have disability. The appellant (carrier) appealed the hearing officer's determinations that the claimant sustained an injury to his lumbar and cervical spine in the course and scope of his employment and that due to the injury the claimant has been unable to obtain and retain employment at wages equivalent to his preinjury AWW on June 13, 2001, and beginning June 15, 2001, and continuing through the date of the hearing. There is no response from the claimant in the file. The hearing officer's determination that the claimant did not sustain a compensable injury on _____, and that he did not have disability is unappealed and has become final. Section 410.169.

DECISION

We affirm.

The carrier appealed the hearing officer's findings of fact that the claimant's work-related activities caused trauma to his spine and resulted in an injury to his lumbar and cervical spine. The carrier further appealed the hearing officer's finding that due to the work-related injury, the claimant has been unable to obtain and retain employment at wages equivalent to his preinjury AWW. Because the hearing officer's determination that the claimant did not sustain a compensable injury and did not have disability have become final pursuant to Section 410.169, the carrier was not aggrieved by the complained-of findings of fact and we will not consider the carrier's appeal. We recognize a party's desire to preserve their rights in the event of further appeal. In the future, an appeal such as this one should be made "conditional."

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Edward Vilano
Appeals Judge